

1 SLAVIK S. LEYDIKER (SBN 276264)
2 Law Office of Steve Leydiker
3 1771 Woodside Road
4 Redwood City, CA 94061
5 TEL: (650) 364-3455 FAX: (650) 616-3924

6 Attorney for Movant, MARIA SOSA

FILED

NOV 18 2014

UNITED STATES BANKRUPTCY COURT
SAN FRANCISCO, CA

8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10

11 In Re:

12 KINGSWAY CAPITAL PARTNERS,
13 LLC,

14 Debtor.

Case No.: 14-31532 HLB 11

**DECLARATION OF SLAVIK S.
LEYDIKER IN SUPPORT OF MOTION
FOR RELIEF FROM AUTOMATIC STAY**

Date of Hearing: December 8, 2014
Time: 2:00 p.m.
Location: 235 Pine St., 23rd Fl.
San Francisco, CA

18 I, Slavik S. Leydiker, declare:

- 19 1. I am an attorney licensed to practice in the State of California.
20 2. I have personal knowledge of the facts stated herein, and, if called upon to testify
21 thereto, I could and would competently do so.
22 3. I represent Maria Sosa ("Movant") in an unlawful detainer action against
23 Nathaniel Basola Sobayo, dba Kingsway Capital Partners, LLC ("Debtor"). (*San Mateo County*
24 *Superior Court Case No. CLJ209779.*)
25 4. On July 8, 2014, Movant filed an unlawful detainer action against Debtor,
26 alleging that Debtor violated the terms of a commercial lease by failing paying rent.
27 5. Debtor subsequently interposed a demurrer to Movant's complaint, much of which
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1 was disjointed and incoherent.

2 6. Movant filed her objection to the demurrer on July 31, 2014. A hearing on the
3 demurrer was scheduled for August 15, 2014. On August 13, 2014, just two day before the
4 scheduled hearing, Debtor filed a Notice of Removal, incredibly claiming, *inter alia*, violations of
5 the United States Constitution, violations of low income housing tax credit laws, violations of
6 Section 43 of the Federal Internal Revenue Code, and violations of the Federal Fair Debt
7 Collection Practices Act (FDCPA).

8 7. On August 15, 2014, United States Magistrate Judge Maria-Elena James issued an
9 Order to Show Cause as to why the case should not be remanded to the San Mateo County
10 Superior Court. Judge James specifically ordered Debtor to clarify how the Court could have
11 jurisdiction over an unlawful detainer action.

12 8. As a stall tactic, Debtor filed his Response to the Order to Show Cause on August
13 26, 2014. In his response, Debtor first sought to question the legality and validity of the OSC.
14 Thereafter, Debtor proceeded to spew a mixture of outrageous allegations, including violations of
15 state and federal business and professions code and civil rights violations

16 9. On September 10, 2014, United States District Judge Richard Seeborg remanded
17 the unlawful detainer action back to San Mateo County Superior Court. According to Judge
18 Seeborg, none of SOBAYO'S filings put forth a valid basis for removal jurisdiction. The next
19 day, on September 11, 2014, SOBAYO filed a completely unmeritorious Notice of Appeal with
20 the Ninth Circuit Court of Appeals, which was summarily dismissed.

21 10. Once the stay was lifted, Debtor's demurrer was overruled. He was ordered to file
22 and answer no later than November 3, 2014. Instead, Debtor once again seeks to delay the
23 outcome of the unlawful detainer action by filing for bankruptcy.

24 11. As a result of the delays caused by Debtor, Movant has been forced to incur
25 substantial attorney's fees and costs with no end in sight.

26 12. It is expected that the sale of the Premises will fall through unless the unlawful
27 detainer action can be resolved in short order. That is something that Debtor would like to see
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1 happen, as he has also filed a separate action against Movant, the realtors involved in the sale, the
2 buyer, and many others. ¹

3 I declare under penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct.

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6 Date: November 18, 2014


SLAVIK S. LEYDIKER

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¹ On September 5, 2014, Nathaniel Sobayo has filed a filed what appears to be a frivolous breach of contract action in San Mateo County Superior Court, naming a plethora of defendants who have some involvement in the pending sale of the Premises. (*San Mateo County Superior Court Case No. CIV530289*)